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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,374	08/02/2001	Berith Porso	000500-300	3321

7590 12/01/2004  
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/857,374

Applicant(s)

PORSO ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 5-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Berg et al. (4,685,909).

Berg discloses an absorbent structure, as shown in figure 2, comprising a wetting region 203 and a region 204 outside the wetting region 203. The wetting region 203 comprises superabsorbent material 205 having a degree of neutralization of less than 50%, as disclosed in column 8, lines 19-24. The region 204 comprises superabsorbent material 206 with a degree of neutralization greater than 50%, as disclosed in column 5, lines 40-43. The absorbent structure has a thickness of 5 mm, as disclosed in column 7, lines 32-35. The wetting region 203 comprises 40% by weight of superabsorbent material 205, as disclosed in column 9, lines 54-56.

With respect to claim 3, the absorbent structure comprises chemical pulp, as disclosed in column 4, lines 51-68.

With respect to claim 5, the absorbent structure is intended for incontinence protectors, as disclosed in column 1, lines 12-13.

With respect to claims 6 and 13, the superabsorbent material 206 has a degree of neutralization of greater than 50%, a range which includes 70%.

With respect to claims 7, 12, and 14, the wetting region 203 is a first zone closer to the wearer, and the region 204 is a second zone located beneath the first zone, as shown in figure 2.

With respect to claim 8, the superabsorbent material 205 (307) is placed in a layer in a lower part of the structure, as shown in figure 3.

With respect to claim 9, the article comprises a upper liquid permeable sheet 202 and a bottom liquid impermeable barrier sheet 201 enclosing the absorbent structure, as shown in figure 2.

With respect to claims 10 and 11, the absorbent article is an incontinence protector, as disclosed in column 1, lines 12-13.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg et al. (4,685,909) as applied to claim 1 above, and further in view of Wada et al. (5,994,614).

Berg discloses all aspects of the claimed invention with the exception of the thickness of the absorbent structure being between 1 mm and 3 mm. Wada

discloses a diaper having an absorbent structure comprising superabsorbent material, the absorbent structure having a thickness of between 1 mm and 5 mm. The thickness of between 1 mm and 5 mm provides a satisfactory absorptivity while maintaining a comfortable feel for the wearer, as disclosed in column 9, lines 59-62. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent structure of Berg with a thickness of between 1 mm and 5 mm, as taught by Wada, to provide satisfactory absorptivity while maintaining a comfortable feel for the wearer.

### ***Response to Arguments***

Applicant's arguments filed 16 August 2004 have been fully considered but they are not persuasive.

In response to the applicant's argument that Berg fails to disclose at least 40% by weight superabsorbent material in the wetting region, it is noted that the disclosure of 1% to 30% cited by the applicant is in relation to the weight of the total absorbent article. Berg discloses in column 9, lines 54-56, the ratio of pH control material within the wetting region. The pH control material is a partially neutralized polymer, as disclosed in column 8, lines 1-24, including polymers such as polyacrylic acid and carboxymethylcellulose which have superabsorbent properties. Berg discloses several possible pH control materials, but those relied upon in the rejection of the claims are the polymers known to have superabsorbent properties.

In response to applicant's argument that it would not be obvious to decrease the thickness of Berg due to the need to increase the concentration of

Art Unit: 3761

pH control agent, it is noted that, as described above, the concentration disclosed by Berg does fulfill the claimed limitations. Therefore, decreasing the thickness would not affect the function of Berg.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*CLA*

cla  
November 23, 2004

*L. Schwartz*

Larry I. Schwartz  
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